

AMENDED IN ASSEMBLY JULY 6, 2015

AMENDED IN ASSEMBLY JUNE 22, 2015

AMENDED IN SENATE JUNE 1, 2015

AMENDED IN SENATE MAY 5, 2015

AMENDED IN SENATE APRIL 7, 2015

SENATE BILL

No. 379

Introduced by Senator Jackson

February 24, 2015

An act to amend Section 65302 of the Government Code, relating to land use.

LEGISLATIVE COUNSEL'S DIGEST

SB 379, as amended, Jackson. Land use: general plan: safety element.

The Planning and Zoning Law requires the legislative body of a city or county to adopt a comprehensive, long-term general plan that includes various elements, including, among others, a safety element for the protection of the community from unreasonable risks associated with the effects of various geologic hazards, flooding, and wildland and urban fires.

This bill would, upon the next revision of a local hazard mitigation plan on or after January 1, 2017, or, if the local jurisdiction has not adopted a local hazard mitigation plan, beginning on or before January 1, 2022, require the safety element to be reviewed and updated as necessary to address climate adaptation and resiliency strategies applicable to that city or county. The bill would require the update to include a set of goals, policies, and objectives based on a vulnerability assessment, identifying the risks that climate change poses to the local

jurisdiction and the geographic areas at risk from climate change impacts, and specified information from federal, state, regional, and local agencies. By imposing new duties on cities and counties, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 65302 of the Government Code is
2 amended to read:

3 65302. The general plan shall consist of a statement of
4 development policies and shall include a diagram or diagrams and
5 text setting forth objectives, principles, standards, and plan
6 proposals. The plan shall include the following elements:

7 (a) A land use element that designates the proposed general
8 distribution and general location and extent of the uses of the land
9 for housing, business, industry, open space, including agriculture,
10 natural resources, recreation, and enjoyment of scenic beauty,
11 education, public buildings and grounds, solid and liquid waste
12 disposal facilities, and other categories of public and private uses
13 of land. The location and designation of the extent of the uses of
14 the land for public and private uses shall consider the identification
15 of land and natural resources pursuant to paragraph (3) of
16 subdivision (d). The land use element shall include a statement of
17 the standards of population density and building intensity
18 recommended for the various districts and other territory covered
19 by the plan. The land use element shall identify and annually
20 review those areas covered by the plan that are subject to flooding
21 identified by flood plain mapping prepared by the Federal
22 Emergency Management Agency (FEMA) or the Department of
23 Water Resources. The land use element shall also do both of the
24 following:

25 (1) Designate in a land use category that provides for timber
26 production those parcels of real property zoned for timberland

1 production pursuant to the California Timberland Productivity Act
2 of 1982 (Chapter 6.7 (commencing with Section 51100) of Part 1
3 of Division 1 of Title 5).

4 (2) Consider the impact of new growth on military readiness
5 activities carried out on military bases, installations, and operating
6 and training areas, when proposing zoning ordinances or
7 designating land uses covered by the general plan for land, or other
8 territory adjacent to military facilities, or underlying designated
9 military aviation routes and airspace.

10 (A) In determining the impact of new growth on military
11 readiness activities, information provided by military facilities
12 shall be considered. Cities and counties shall address military
13 impacts based on information from the military and other sources.

14 (B) The following definitions govern this paragraph:

15 (i) “Military readiness activities” mean all of the following:

16 (I) Training, support, and operations that prepare the men and
17 women of the military for combat.

18 (II) Operation, maintenance, and security of any military
19 installation.

20 (III) Testing of military equipment, vehicles, weapons, and
21 sensors for proper operation or suitability for combat use.

22 (ii) “Military installation” means a base, camp, post, station,
23 yard, center, homeport facility for any ship, or other activity under
24 the jurisdiction of the United States Department of Defense as
25 defined in paragraph (1) of subsection (g) of Section 2687 of Title
26 10 of the United States Code.

27 (b) (1) A circulation element consisting of the general location
28 and extent of existing and proposed major thoroughfares,
29 transportation routes, terminals, any military airports and ports,
30 and other local public utilities and facilities, all correlated with the
31 land use element of the plan.

32 (2) (A) Commencing January 1, 2011, upon any substantive
33 revision of the circulation element, the legislative body shall
34 modify the circulation element to plan for a balanced, multimodal
35 transportation network that meets the needs of all users of streets,
36 roads, and highways for safe and convenient travel in a manner
37 that is suitable to the rural, suburban, or urban context of the
38 general plan.

39 (B) For purposes of this paragraph, “users of streets, roads, and
40 highways” mean bicyclists, children, persons with disabilities,

1 motorists, movers of commercial goods, pedestrians, users of public
2 transportation, and seniors.

3 (c) A housing element as provided in Article 10.6 (commencing
4 with Section 65580).

5 (d) (1) A conservation element for the conservation,
6 development, and utilization of natural resources including water
7 and its hydraulic force, forests, soils, rivers and other waters,
8 harbors, fisheries, wildlife, minerals, and other natural resources.

9 The conservation element shall consider the effect of development
10 within the jurisdiction, as described in the land use element, on
11 natural resources located on public lands, including military
12 installations. That portion of the conservation element including
13 waters shall be developed in coordination with any countywide
14 water agency and with all district and city agencies, including
15 flood management, water conservation, or groundwater agencies
16 that have developed, served, controlled, managed, or conserved
17 water of any type for any purpose in the county or city for which
18 the plan is prepared. Coordination shall include the discussion and
19 evaluation of any water supply and demand information described
20 in Section 65352.5, if that information has been submitted by the
21 water agency to the city or county.

22 (2) The conservation element may also cover all of the
23 following:

24 (A) The reclamation of land and waters.

25 (B) Prevention and control of the pollution of streams and other
26 waters.

27 (C) Regulation of the use of land in stream channels and other
28 areas required for the accomplishment of the conservation plan.

29 (D) Prevention, control, and correction of the erosion of soils,
30 beaches, and shores.

31 (E) Protection of watersheds.

32 (F) The location, quantity and quality of the rock, sand, and
33 gravel resources.

34 (3) Upon the next revision of the housing element on or after
35 January 1, 2009, the conservation element shall identify rivers,
36 creeks, streams, flood corridors, riparian habitats, and land that
37 may accommodate floodwater for purposes of groundwater
38 recharge and stormwater management.

39 (e) An open-space element as provided in Article 10.5
40 (commencing with Section 65560).

(f) (1) A noise element that shall identify and appraise noise problems in the community. The noise element shall analyze and quantify, to the extent practicable, as determined by the legislative body, current and projected noise levels for all of the following sources:

(A) Highways and freeways.

(B) Primary arterials and major local streets.

(C) Passenger and freight online railroad operations and ground rapid transit systems.

(D) Commercial, general aviation, heliport, helistop, and military airport operations, aircraft overflights, jet engine test stands, and all other ground facilities and maintenance functions related to airport operation.

(E) Local industrial plants, including, but not limited to, railroad classification yards.

(F) Other ground stationary noise sources, including, but not limited to, military installations, identified by local agencies as contributing to the community noise environment.

(2) Noise contours shall be shown for all of these sources and stated in terms of community noise equivalent level (CNEL) or day-night average sound level (L_{dn}). The noise contours shall be prepared on the basis of noise monitoring or following generally accepted noise modeling techniques for the various sources identified in paragraphs (1) to (6), inclusive.

(3) The noise contours shall be used as a guide for establishing a pattern of land uses in the land use element that minimizes the exposure of community residents to excessive noise.

(4) The noise element shall include implementation measures and possible solutions that address existing and foreseeable noise problems, if any. The adopted noise element shall serve as a guideline for compliance with the state's noise insulation standards.

(g) (1) A safety element for the protection of the community from any unreasonable risks associated with the effects of seismically induced surface rupture, ground shaking, ground failure, tsunami, seiche, and dam failure; slope instability leading to mudslides and landslides; subsidence; liquefaction; and other seismic hazards identified pursuant to Chapter 7.8 (commencing with Section 2690) of Division 2 of the Public Resources Code, and other geologic hazards known to the legislative body; flooding; and wildland and urban fires. The safety element shall include

1 mapping of known seismic and other geologic hazards. It shall
2 also address evacuation routes, military installations, peakload
3 water supply requirements, and minimum road widths and
4 clearances around structures, as those items relate to identified fire
5 and geologic hazards.

6 (2) The safety element, upon the next revision of the housing
7 element on or after January 1, 2009, shall also do the following:

8 (A) Identify information regarding flood hazards, including,
9 but not limited to, the following:

10 (i) Flood hazard zones. As used in this subdivision, “flood
11 hazard zone” means an area subject to flooding that is delineated
12 as either a special hazard area or an area of moderate or minimal
13 hazard on an official flood insurance rate map issued by the Federal
14 Emergency Management Agency (FEMA). The identification of
15 a flood hazard zone does not imply that areas outside the flood
16 hazard zones or uses permitted within flood hazard zones will be
17 free from flooding or flood damage.

18 (ii) National Flood Insurance Program maps published by
19 FEMA.

20 (iii) Information about flood hazards that is available from the
21 United States Army Corps of Engineers.

22 (iv) Designated floodway maps that are available from the
23 Central Valley Flood Protection Board.

24 (v) Dam failure inundation maps prepared pursuant to Section
25 8589.5 that are available from the Office of Emergency Services.

26 (vi) Awareness Floodplain Mapping Program maps and 200-year
27 flood plain maps that are or may be available from, or accepted
28 by, the Department of Water Resources.

29 (vii) Maps of levee protection zones.

30 (viii) Areas subject to inundation in the event of the failure of
31 project or nonproject levees or floodwalls.

32 (ix) Historical data on flooding, including locally prepared maps
33 of areas that are subject to flooding, areas that are vulnerable to
34 flooding after wildfires, and sites that have been repeatedly
35 damaged by flooding.

36 (x) Existing and planned development in flood hazard zones,
37 including structures, roads, utilities, and essential public facilities.

38 (xi) Local, state, and federal agencies with responsibility for
39 flood protection, including special districts and local offices of
40 emergency services.

1 (B) Establish a set of comprehensive goals, policies, and
2 objectives based on the information identified pursuant to
3 subparagraph (A), for the protection of the community from the
4 unreasonable risks of flooding, including, but not limited to:

5 (i) Avoiding or minimizing the risks of flooding to new
6 development.

7 (ii) Evaluating whether new development should be located in
8 flood hazard zones, and identifying construction methods or other
9 methods to minimize damage if new development is located in
10 flood hazard zones.

11 (iii) Maintaining the structural and operational integrity of
12 essential public facilities during flooding.

13 (iv) Locating, when feasible, new essential public facilities
14 outside of flood hazard zones, including hospitals and health care
15 facilities, emergency shelters, fire stations, emergency command
16 centers, and emergency communications facilities or identifying
17 construction methods or other methods to minimize damage if
18 these facilities are located in flood hazard zones.

19 (v) Establishing cooperative working relationships among public
20 agencies with responsibility for flood protection.

21 (C) Establish a set of feasible implementation measures designed
22 to carry out the goals, policies, and objectives established pursuant
23 to subparagraph (B).

24 (3) Upon the next revision of the housing element on or after
25 January 1, 2014, the safety element shall be reviewed and updated
26 as necessary to address the risk of fire for land classified as state
27 responsibility areas, as defined in Section 4102 of the Public
28 Resources Code, and land classified as very high fire hazard
29 severity zones, as defined in Section 51177. This review shall
30 consider the advice included in the Office of Planning and
31 Research's most recent publication of "Fire Hazard Planning,
32 General Plan Technical Advice Series" and shall also include all
33 of the following:

34 (A) Information regarding fire hazards, including, but not limited
35 to, all of the following:

36 (i) Fire hazard severity zone maps available from the Department
37 of Forestry and Fire Protection.

38 (ii) Any historical data on wildfires available from local
39 agencies or a reference to where the data can be found.

1 (iii) Information about wildfire hazard areas that may be
2 available from the United States Geological Survey.

3 (iv) General location and distribution of existing and planned
4 uses of land in very high fire hazard severity zones and in state
5 responsibility areas, including structures, roads, utilities, and
6 essential public facilities. The location and distribution of planned
7 uses of land shall not require defensible space compliance measures
8 required by state law or local ordinance to occur on publicly owned
9 lands or open space designations of homeowner associations.

10 (v) Local, state, and federal agencies with responsibility for fire
11 protection, including special districts and local offices of
12 emergency services.

13 (B) A set of goals, policies, and objectives based on the
14 information identified pursuant to subparagraph (A) for the
15 protection of the community from the unreasonable risk of wildfire.

16 (C) A set of feasible implementation measures designed to carry
17 out the goals, policies, and objectives based on the information
18 identified pursuant to subparagraph (B) including, but not limited
19 to, all of the following:

20 (i) Avoiding or minimizing the wildfire hazards associated with
21 new uses of land.

22 (ii) Locating, when feasible, new essential public facilities
23 outside of high fire risk areas, including, but not limited to,
24 hospitals and health care facilities, emergency shelters, emergency
25 command centers, and emergency communications facilities, or
26 identifying construction methods or other methods to minimize
27 damage if these facilities are located in a state responsibility area
28 or very high fire hazard severity zone.

29 (iii) Designing adequate infrastructure if a new development is
30 located in a state responsibility area or in a very high fire hazard
31 severity zone, including safe access for emergency response
32 vehicles, visible street signs, and water supplies for structural fire
33 suppression.

34 (iv) Working cooperatively with public agencies with
35 responsibility for fire protection.

36 (D) If a city or county has adopted a fire safety plan or document
37 separate from the general plan, an attachment of, or reference to,
38 a city or county's adopted fire safety plan or document that fulfills
39 commensurate goals and objectives and contains information
40 required pursuant to this paragraph.

(4) Upon the next revision of a local hazard mitigation plan, adopted in accordance with the federal Disaster Mitigation Act of 2000 (Public Law 106-390), on or after January 1, 2017, or, if a local jurisdiction has not adopted a local hazard mitigation plan, beginning on or before January 1, 2022, the safety element shall be reviewed and updated as necessary to address climate adaptation and resiliency strategies applicable to the city or county. This review shall consider advice provided in the Office of Planning and Research's General Plan Guidelines and shall include all of the following:

(A) (i) A vulnerability assessment that identifies the risks that climate change poses to the local jurisdiction and the geographic areas at risk from climate change impacts, including, but not limited to, an assessment of how climate change may affect the risks addressed pursuant to paragraphs (2) and (3).

(ii) Information that may be available from federal, state, regional, and local agencies that will assist in developing the vulnerability assessment and the adaptation policies and strategies required pursuant to subparagraph (B), including, but not limited to, all of the following:

(I) Information from the Internet-based Cal-Adapt tool.

(II) Information from the most recent version of the California Adaptation Planning Guide.

(III) Information from local agencies on the types of assets, resources, and populations that will be sensitive to various climate change exposures.

(IV) Information from local agencies on their current ability to deal with the impacts of climate change.

(V) Historical data on natural events and hazards, including locally prepared maps of areas subject to previous risk, areas that are vulnerable, and sites that have been repeatedly damaged.

(VI) Existing and planned development in identified at-risk areas, including structures, roads, utilities, and essential public facilities.

(VII) Federal, state, regional, and local agencies with responsibility for the protection of public health and safety and the environment, including special districts and local offices of emergency services.

1 (B) A set of adaptation and resilience goals, policies, and
2 objectives based on the information specified in subparagraph (A)
3 for the protection of the community.

4 (C) A set of feasible implementation measures designed to carry
5 out the goals, policies, and objectives identified pursuant to
6 subparagraph (B) including, but not limited to, all of the following:

7 (i) Feasible methods to avoid or minimize climate change
8 impacts associated with new uses of land.

9 (ii) The location, when feasible, of new essential public facilities
10 outside of at-risk areas, including, but not limited to, hospitals and
11 health care facilities, emergency shelters, emergency command
12 centers, and emergency communications facilities, or identifying
13 construction methods or other methods to minimize damage if
14 these facilities are located in at-risk areas.

15 (iii) The designation of adequate and feasible infrastructure
16 located in an at-risk area.

17 (iv) Guidelines for working cooperatively with relevant local,
18 regional, state, and federal agencies.

19 (v) The identification of natural infrastructure that may be used
20 in adaptation projects, where feasible. Where feasible, the plan
21 shall use existing natural features and ecosystem processes, or the
22 restoration of natural features and ecosystem processes, when
23 developing alternatives for consideration. For the purposes of this
24 clause, “natural infrastructure” means the preservation or
25 restoration of ecological systems, or utilization of engineered
26 systems that use ecological processes, to increase resiliency to
27 climate change, manage other environmental hazards, or both.
28 This may include, but is not limited to, floodplain and wetlands
29 restoration or preservation, combining levees with restored natural
30 systems to reduce flood risk, and urban tree planting to mitigate
31 high heat days.

32 (D) (i) If a city or county has adopted the local hazard
33 mitigation plan, or other climate adaptation plan or document that
34 fulfills commensurate goals and objectives and contains the
35 information required pursuant to this paragraph, separate from the
36 general plan, an attachment of, or reference to, the local hazard
37 mitigation plan or other climate adaptation plan or document.

38 (ii) *Cities or counties that have an adopted hazard mitigation*
39 *plan, or other climate adaptation plan or document that*
40 *substantially complies with this section, or have substantially*

1 *equivalent provisions to this subdivision in their general plans,*
2 *may use that information in the safety element to comply with this*
3 *subdivision, and shall summarize and incorporate by reference*
4 *into the safety element the other general plan provisions, climate*
5 *adaptation plan or document, specifically showing how each*
6 *requirement of this subdivision has been met.*

7 (5) After the initial revision of the safety element pursuant to
8 paragraphs (2), (3), and (4) upon each revision of the housing
9 element, the planning agency shall review and, if necessary, revise
10 the safety element to identify new information that was not
11 available during the previous revision of the safety element.

12 (6) Cities and counties that have flood plain management
13 ordinances that have been approved by FEMA that substantially
14 comply with this section, or have substantially equivalent
15 provisions to this subdivision in their general plans, may use that
16 information in the safety element to comply with this subdivision,
17 and shall summarize and incorporate by reference into the safety
18 element the other general plan provisions or the flood plain
19 ordinance, specifically showing how each requirement of this
20 subdivision has been met.

21 (7) Prior to the periodic review of its general plan and prior to
22 preparing or revising its safety element, each city and county shall
23 consult the California Geological Survey of the Department of
24 Conservation, the Central Valley Flood Protection Board, if the
25 city or county is located within the boundaries of the Sacramento
26 and San Joaquin Drainage District, as set forth in Section 8501 of
27 the Water Code, and the Office of Emergency Services for the
28 purpose of including information known by and available to the
29 department, the agency, and the board required by this subdivision.

30 (8) To the extent that a county's safety element is sufficiently
31 detailed and contains appropriate policies and programs for
32 adoption by a city, a city may adopt that portion of the county's
33 safety element that pertains to the city's planning area in
34 satisfaction of the requirement imposed by this subdivision.

35 SEC. 2. No reimbursement is required by this act pursuant to
36 Section 6 of Article XIII B of the California Constitution because
37 a local agency or school district has the authority to levy service
38 charges, fees, or assessments sufficient to pay for the program or

- 1 level of service mandated by this act, within the meaning of Section
- 2 17556 of the Government Code.

O